

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TRUSTEES OF THE NEW YORK CITY DISTRICT :
COUNCIL OF CARPENTERS PENSION FUND, :
WELFARE FUND, ANNUITY FUND, AND :
APPRENTICESHIP, JOURNEYMAN RETRAINING, :
EDUCATIONAL AND INDUSTRY FUND, *et al.*, :

Petitioners,

-v-

SOUTH ISLAND INSTALLERS INC.,

Respondent.
X

23-CV-8045 (AS)

MEMORANDUM OPINION
AND ORDER

ARUN SUBRAMANIAN, United States District Judge:

On September 11, 2023, Petitioners filed a Petition to Confirm Arbitration. ECF No. 1. On November 20, 2023, the Court set a briefing schedule for Petitioners' submission of any additional materials in support of the Petition, Respondent's opposition, and Petitioners' reply. ECF No. 12. Petitioners served Respondent with the Petition, supporting materials, and the briefing schedule. ECF Nos. 13. Pursuant to the briefing schedule, Respondent's opposition was due no later than December 22, 2023. ECF No. 12. To date, Respondent has neither responded to the petition nor otherwise sought relief from the Award.

The Court must treat the Petition, even though unopposed, "as akin to a motion for summary judgment based on the movant's submissions." *Trs. for Mason Tenders Dist. Council Welfare Fund, Pension Fund, Annuity Fund & Training Program Fund v. Capstone Constr. Corp.*, 11-CV-1715 (JMF), 2013 WL 1703578, at *2 (S.D.N.Y. Apr. 19, 2013) (discussing in depth the legal standards for resolving unopposed petitions to confirm arbitration awards). After

reviewing the petition and the supporting materials, the Court finds that there is no genuine issue of material fact precluding summary judgment as to all portions of the Award, as the Arbitrator's decision provides more than "a barely colorable justification for the outcome reached." *Id.* at *3 (internal quotation marks omitted). Nor is there any justification under Section 10(a) of the Federal Arbitration Act for vacating the Award.

The Court also awards Petitioners' requested attorneys' fees and costs. *See Int'l Chem. Workers Union (AFL-CIO), Local No. 227 v. BASF Wyandotte Corp.*, 774 F.2d 43, 47 (2d Cir. 1985) ("[W]hen a challenger refuses to abide by an arbitrator's decision without justification, attorney's fees and costs may properly be awarded." (internal quotation marks omitted)). Here, Petitioner has met its burden of proving the reasonableness and necessity of hours spent, rates charged, and litigation costs incurred.

Finally, the Court grants Petitioners' request for post-judgment interest in accordance with 28 U.S.C. § 1961(a). Awards of post-judgment interest under § 1961 are mandatory, *see Cappiello v. ICD Publ'ns, Inc.*, 720 F.3d 109, 113 (2d Cir. 2013), and apply to actions to confirm arbitration awards, *see Westinghouse Credit Corp. v. D'Urso*, 371 F.3d 96, 100–01 (2d Cir. 2004). The Court therefore awards interest to accrue at the statutory rate from the date judgment is entered until payment is made.


Accordingly, IT IS ORDERED AND ADJUDGED that the Petition and Motion are granted, the March 23, 2023 arbitration award is confirmed, and judgment is entered in favor of Petitioners and against Respondent as follows:

1. Confirming the Award in all respects;
2. Ordering Respondent to make available its books and records for an audit covering April 1, 2021 through the present, in accordance with the Award;

3. Awarding Petitioners \$877,749.60 pursuant to the Award;
4. Awarding Petitioners \$6,711.50 in attorneys' fees and \$155.76 in costs arising out of this proceeding; and
5. Awarding Petitioners post-judgment interest at the statutory rate.

SO ORDERED.

Dated: February 23, 2024
New York, New York



ARUN SUBRAMANIAN
United States District Judge